

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION**

ARTHUR LEE BONNER,)	
)	
Plaintiff,)	
)	
v.)	Case No. 7:13-cv-00863-MHH-SGC
)	
ANTHONY D. HOLIFIELD, et. al.,)	
)	
Defendants.)	

MEMORANDUM OPINION

On January 14, 2015, the Magistrate Judge filed a report in which she recommended that the Court grant Officer Holifield's motion for summary judgment and dismiss without prejudice Mr. Bonner's claim against Officer Wright. (Doc. 24 at 8). Mr. Bonner has not objected to the report and recommendation.

When a party does not object to a report and recommendation, the Court reviews the report for clear error. *Macort v. Prem, Inc.*, 208 Fed. Appx. 781, 784 (11th Cir. 2006). The Court "may accept, reject, or modify, in whole or part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).

Having carefully reviewed all of the materials in the court file, including the complaint, the report and recommendation, and the evidence that Officer Holifield submitted, the Court adopts the Magistrate Judge's report and accepts her

recommendation to grant Officer Holifield's motion for summary judgment. Although there are disputed issues of fact concerning the point in time at which Officer Holifield stopped using force and the extent of the force used (*compare* Doc. 1, p. 3 and Doc. 19-1, p. 2), these disputes do not give rise to a jury question because, as the Magistrate Judge found, "courts should 'give a wide range of deference to prison officials acting to preserve discipline and security, including when considering decisions made at the scene of a disturbance' . . ." (Doc. 24, p. 5) (quoting *Cockrell v. Sparks*, 510 F.3d 1307, 1311 (11th Cir. 2007)). Mr. Bonner offered no evidence to contradict the evidence that demonstrates that on April 4, 2013, Bonner was involved in a prison riot in the morning and in a fist fight with another prisoner later in the day. Officer Holifield intervened and used force to break up the fight. Neither the prison reports of the events of the day nor Mr. Bonner's medical records contains evidence that suggests that Officer Holifield used excessive force to stop the fist fight or that he applied force maliciously to cause harm. Therefore, Mr. Bonner's Eighth Amendment claim against Officer Holifield fails as a matter of law.

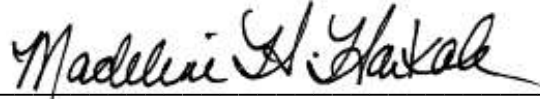
The Court also adopts the Magistrate Judge's report and accepts her recommendation with respect to Mr. Bonner's claim against Officer Wright. (Doc. 24, p. 1, n.1).

Therefore, the Court finds that there are no genuine issues of material fact as to Mr. Bonner's claim against Officer Holifield, and Officer Holifield is entitled to

judgment as a matter of law. The Court dismisses Mr. Bonner's claims against Officer Wright without prejudice for lack of prosecution.

A final judgment will be entered.

DONE and **ORDERED** this February 27, 2015.

A handwritten signature in black ink, reading "Madeline H. Haikala". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

MADELINE HUGHES HAIKALA
UNITED STATES DISTRICT JUDGE